

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

JUXTACOMM TECHNOLOGIES, INC.

PLAINTIFF,

v.

ASCENTIAL SOFTWARE CORP., ET AL.,

DEFENDANTS.

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Civil Action No. 2:07-CV-00359-LED

**PLAINTIFF'S AMENDED OBJECTIONS TO
IBM'S OPENING DEPOSITION DESIGNATIONS**

Plaintiff JuxtaComm Technologies, Inc. ("JuxtaComm") files its amended objections to *IBM's Opening Deposition Designations*. JuxtaComm reserves the right to supplement, amend or otherwise modify the exchanged objections based on circumstances that may arise prior to trial, including but not limited to circumstances that may result from the Court's ruling on Motions for Summary Judgment, Motions in Limine, and any other pre-trial objections or motions filed in the case. In addition, JuxtaComm reserves the right and will object to deposition testimony regarding any trial exhibit the Court determines, in response to JuxtaComm's objections, to be inadmissible. JuxtaComm's lack of an objection herein to deposition testimony relating to a particular document is not and should not be considered a waiver of JuxtaComm's objections to the admissibility of that document.

**DEPOSITION EXCERPTS FROM
DEPOSITION TESTIMONY OF RUSSELL BLACK
Date of Deposition: March 25, 2009**

Page/Line Designation	Objections
8:3 – 8:4	--
9:16 – 10:19	--
12:16 – 12:19	--
13:1 – 13:3	--
14:18 – 15:2	--
15:10 – 15:22	--
16:1 – 16:4	--
17:18 – 19:8	--
19:11 – 22:11	--
34:23 – 35:22	--
37:21 – 38:11	--
47:3 – 47:7	--
48:2 – 48:4	--
69:14 – 69:25	--
74:23 – 75:17	--
112:3 – 114:25	FRE 401, 402
115:22 – 116:1	FRE 401, 402
116:15 – 117:9	FRE 401, 402, 403
125:14 – 126:9	--
131:17 – 132:2	--
132:24 – 133:1	--
134:24 – 135:24	FRE 602
136:11 – 137:14	--
154:6 – 155:9	--
161:21 – 162:15	--
163:2 – 163:13	--
163:18 – 164:19	--
165:11 – 175:19	FRE 602
181:2 – 181:21	FRE 602
195:13 – 195:15	--
195:18 – 195:22	FRE 602
196:12 – 196:20	FRE 602
197:6 – 197:9	FRE 602
197:23 – 198:9	FRE 602
205:13 – 206:25	FRE 401, 402
213:9 – 213:21	--
214:7 – 214:23	--
216:5 – 216:9	--
220:2 – 220:19	--
221:6 – 222:12	--
222:15 – 222:18	--

224:7 – 224:9	FRE 602
224:11 – 224:22	FRE 602
224:24 – 224:25	FRE 602
225:2 – 225:4	--
225:6 – 225:12	--
225:22 – 225:24	--
226:1 – 226:4	--
226:7 – 226:11	--
226:13 – 226:17	--
227:7 – 227:8	FRE 602
227:10 – 227:13	FRE 602
227:15 – 227:15	FRE 602
234:10 – 234:12	--
235:5 – 235:8	FRE 602
JuxtaComm Counter/Completeness Designations	15:23 – 15:25; 23:16 - 23:18; 23:20; 23:23 - 24:8; 38:12 - 38:24; 75:18 - 76:4; 77:17 - 77:25; 175:20-176:19; 176:25-177:11; 196:21 - 196:23; 197:10 – 197:11; 207:1 - 208:2; 235:9-236:2

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DAVID BROUCH Date of Deposition: May 5, 2009	
Page/Line Designation	Objections
6:19 – 7:8	FRE 401; 402; 403
7:22 – 26:7	FRE 401; 402; 403; 602
26:11 – 28:20	FRE 401; 402; 403; Leading; Mischaracterizes prior testimony
29:15 – 30:13	--
31:14 – 31:18	FRE 401; 402; 403
34:10 – 34:11	FRE 401; 402; 403; 602; 701; Leading
34:16 – 35:8	FRE 401; 402; 403; 602; 701
35:23 – 37:6	FRE 401; 402; 403; 602; 701

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DAVID BROWN Date of Deposition: April 8, 2009	
Page/Line Designation	Objections
8:5 – 8:6	--
9:22 – 9:25	--
21:8 – 21:20	FRE 401, 403: Prejudice; Confusion; Waste of Time, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony
21:23 – 22:7	FRE 401, 403: Prejudice; Confusion; Waste of Time, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony
22:11 – 23:11	FRE 401, 403: Prejudice; Confusion; Waste of Time, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony

23:18 – 26:2	FRE 401, 403: Prejudice; Confusion; Waste of Time
27:23 – 28:22	FRE 401, 403: Prejudice; Confusion; Waste of Time
29:24 – 31:10	--
34:5 – 34:13	--
36:2 – 36:5	FRE 401, 403: Prejudice; Confusion; Waste of Time
39:10 – 39:15	FRE 401, 403: Prejudice; Confusion; Waste of Time
40:16 – 41:22	FRE 401, 403: Prejudice; Confusion; Waste of Time
42:10 – 43:1	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602
44:3 – 44:11	FRE 401, 403: Prejudice; Confusion; Waste of Time
44:16 – 45:3	FRE 401, 403: Prejudice; Confusion; Waste of Time
45:5 – 45:22	FRE 401, 403: Prejudice; Confusion; Waste of Time
48:3 – 49:8	FRE 401, 403: Prejudice; Confusion; Waste of Time
52:23 – 54:2	FRE 401, 403: Prejudice; Confusion; Waste of Time
55:1 – 56:24	FRE 401, 403: Prejudice; Confusion; Waste of Time
59:18 – 61:13	FRE 401, 403: Prejudice; Confusion; Waste of Time
77:16 – 77:24	FRE 401, 403: Prejudice; Confusion; Waste of Time
78:17 – 79:19	FRE 401, 403: Prejudice; Confusion; Waste of Time
81:12 – 82:6	--
101:19 – 102:3	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 801, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony
102:7 – 102:10	FRE 401, 403: Prejudice; Confusion; Waste of Time, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony
102:13 – 102:17	FRE 401, 403: Prejudice; Confusion; Waste of Time, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony
102:20 – 103:3	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 801, Objection to Form: Vague; Ambiguous; Mischaracterizes Prior Testimony
123:7 – 124:5	FRE 401, 403: Prejudice; Confusion; Waste of Time
130:5 – 130:23	FRE 401, 403: Prejudice; Confusion; Waste of Time
133:2 – 135:1	FRE 401, 403: Prejudice; Confusion; Waste of Time
166:3 – 166:4	FRE 401, 403: Prejudice; Confusion; Waste of Time
166:11 – 168:20	FRE 401, 403: Prejudice; Confusion; Waste of Time
169:19 – 169:21	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 801
170:6 – 172:20	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 801
172:23 – 174:22	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 701, 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
174:25 – 175:11	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 701, 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
183:11 – 184:12	FRE 401, 403: Prejudice; Confusion; Waste of Time

203:2 – 205:2	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 701, 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
217:18 – 219:14	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 701
221:23 – 225:8	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 701, 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
225:12 – 225:13	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 701, 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
236:13 – 239:20	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
239:24 – 240:18	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 801
241:15 – 242:17	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 602, 801
252:24 – 253:9	FRE 401, 403: Prejudice; Confusion; Waste of Time
257:15 – 258:13	FRE 401, 403: Prejudice; Confusion; Waste of Time
259:8 – 259:16	FRE 401, 403: Prejudice; Confusion; Waste of Time
260:16 – 261:25	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 801
262:8 – 263:2	FRE 401, 403: Prejudice; Confusion; Waste of Time: Prejudice; Confusion; Waste of Time, FRE 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
263:6 – 263:19	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DAVID BROWN Date of Deposition: April 9, 2009	
Page/Line Designation	Objections
343:21 – 343:23	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 701, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
344:1 – 345:1	FRE 401, 403: Prejudice; Confusion; Waste of Time, FRE 701, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
374:2 – 374:7	FRE 401, 403: Prejudice; Confusion; Waste of Time
381:14 – 382:22	FRE 401, 403: Prejudice; Confusion; Waste of Time

411:21 – 412:20	FRE 401, 403: Prejudice; Confusion; Waste of Time
417:2 – 417:4	FRE 401, 403: Prejudice; Confusion; Waste of Time
428:21 – 429:17	FRE 401, 403: Prejudice; Confusion; Waste of Time
432:6 – 433:3	FRE 401, 403: Prejudice; Confusion; Waste of Time
435:1 – 436:1	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
448:2 – 448:20	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
459:7 – 459:10	FRE 401, 403: Prejudice; Confusion; Waste of Time
462:24 – 463:13	FRE 401, 403: Prejudice; Confusion; Waste of Time
464:24 – 465:3	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
467:11 – 468:5	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 701; 801
472:18 – 472:23	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
476:7 – 476:24	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
485:6 – 485:13	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
487:16 – 487:24	FRE 401, 403: Prejudice; Confusion; Waste of Time; FRE 801
494:20 – 494:25	FRE 401, 403: Prejudice; Confusion; Waste of Time
495:12 – 495:25	FRE 401, 403: Prejudice; Confusion; Waste of Time
496:14 – 498:8	FRE 401, 403: Prejudice; Confusion; Waste of Time
498:15 – 498:25	FRE 401, 403: Prejudice; Confusion; Waste of Time
530:1 – 531:13	FRE 401, 403: Prejudice; Confusion; Waste of Time

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF JERRY CALLEN Date of Deposition: March 20, 2009	
Page/Line Designation	Objections
6:8 – 6:25	--
7:5 – 7:7	--
9:3 – 9:25	--
10:2 – 10:25	FRE 401; 402; 403: Waste of Time
11:2- 11:11	--
11:15 – 11:25	--
12: 2 – 12:9	--
12:14 – 12:20	--
13:22 – 14:6	FRE 403; Confusing, Prejudicial
17:20 – 17:25	--
18:2 – 18:7	--
18:20 – 18:25	--
19:2 – 19:4	--
24:21 – 24:25	--
25:2 – 25:11	--
36:7 – 36:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial
37:2 – 37:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; Nonresponsive
38:2 – 38:2	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial;

	Nonresponsive
58:23 – 58:25	--
59:2 – 59:23	--
65:5 – 65:25	FRE 403: Waste of Time, Confusing, Prejudicial; Vague; Ambiguous
66:2 – 66:9	FRE 403: Waste of Time, Confusing, Prejudicial; Vague; Ambiguous
75:14 – 75:25	--
76:2 – 76:14	--
80:24 – 80:25	--
81:2 – 81:15	--
91:20 – 91:25	--
92:2 – 92:25	--
93:2 – 93:17	--
94:8 – 94:24	--
97:16 – 97:21	--
97:24 – 97:25	--
98:2 – 98:3	--
101:15 – 101:25	--
102:2 – 102:7	--
105:24 – 105:25	FRE 401; 402; 403: Confusing, Prejudicial
106:2 – 106:25	(106:2-22: FRE 401; 402; 403: Confusing, Prejudicial)
107:2 – 107:13	--
113:8 – 113:25	--
114:2 – 114:25	(114:17-25: FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602)
115:2 – 115:12	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602
117:10 – 115:16	--
119:2 – 119:14	--
120:2 – 120:7	--
120:10 – 120:11	--
122:13 – 122:24	--
JuxtaComm's Counter/Completeness Designations	14:11 – 14:14; 93:18 – 93:20; 95:24 – 96:6; 96:16 – 97:12; 119:19 – 119:25; 120:12 – 120:20; 121:15 – 122:8; 122:25 – 123:3

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF JERRY CALLEN Date of Deposition: July 24, 2009	
Page/Line Designation	Objections
205:2 - 205:6	--
205:10 - 205:15	--
207:12 - 207:25	--

208:2 - 208:25	--
209:2 - 209:17	--
211:5 - 211:25	(211:14-25: FRE 801; 802)
236:20 - 236:25	--
237:2 - 237:25	FRE 401; 402; 403: Waste of Time; 801; 802
238:2 - 238:25	FRE 401; 402; 403: Waste of Time; 801; 802
239:2 - 239:25	FRE 401; 402; 403: Waste of Time; 801; 802
240:2 - 240:25	FRE 401; 402; 403: Waste of Time; 801; 802
241:2 - 241:9	--
242:11 - 242:21	--
259:17 - 259:21	--
260:2 - 260:25	--
261:2 - 261:13	--
287:25 - 287:25	--
288:2 - 288:7	--
289:4 - 289:25	--
290:2 - 290:25	--
291:2 - 291:25	--
292:2 - 292:25	--
293:2 - 293:25	--
294:2 - 294:7	--
295:9 - 295:16	--
296:6 - 296:25	--
297:2 - 297:10	--
352:19 - 352:25	FRE 401; 402; Lack of foundation
353:2 - 353:22	--
355:9 - 355:22	(355:19-22 – Vague; Ambiguous)
355:24 - 355:25	Vague; Ambiguous
356:2 - 356:17	FRE 403: Confusing, Prejudicial; Vague; Ambiguous
358:23 - 358:25	FRE 403: Confusing, Prejudicial; Vague; Ambiguous
359:2 - 359:17	FRE 403: Confusing, Prejudicial; Vague; Ambiguous
361:3 - 361:13	--
361:15 - 361:22	--
361:24 – 25	--
362:2 - 362:12	(362:8-12 – FRE 403: Confusing, Prejudicial; Vague; Ambiguous)
362:17 - 362:23	Vague; Ambiguous
JuxtaComm's Completeness/Counter Designations	235:9-24; 241:10-25

DEPOSITION EXCERPTS FROM
DEPOSITION TESTIMONY OF JERRY CALLEN
Date of Deposition: August 11, 2009

Page/Line Designation	Objections
375:2 - 375:4	--
376:2 - 376:13	--
376:17 - 376:22	--
382:10 - 382:15	--
382:20 - 382:23	--
383:3 - 383:21	--
389:5 - 389:12	--
390:5 - 390:16	--
391:6 - 391:25	--
392:2 - 392:22	--
393:11 - 393:18	--
394:12 - 384:15	--
395:9 - 395:12	--
395:14 - 395:25	--
396:2 - 396:2	--
396:16 - 396:18	--
396:20 - 396:22	--
397:2 - 397:10	--
398:4 - 398:25	--
399:2 - 399:3	--
399:11 - 399:25	--
400:2 - 400:3	--
410:4 - 410:8	--
410:10 - 410:17	--
417:2 - 417:3	--
417:16 - 417:19	--
417:21 - 417:21	--
417:24 - 417:25	--
418:2 - 418:15	--
418:22 - 418:25	--
419:3 - 419:8	--
427:18 - 427:19	--
427:21 - 427:25	--
428:2 - 428:2	--
428:4 - 428:25	--
429:2 - 429:2	--
429:4 - 429:10	--
429:12 - 429:17	--
429:19-429:20	--
433:12 - 433:13	--
433:15 - 433:16	--

437:10 - 437:24	--
438:8 - 438:11	--
438:17 - 438:18	--
438:22 - 438:25	--
439:2 - 439:22	--
440:2 - 440:5	--
440:7 - 440:10	--
440:12 - 440:22	--
440:24 - 440:25	--
441:15 - 441:22	--
442:4 - 442:4	--
442:7 - 442:10	--
443:9 - 443:23	--
443:25 - 443:25	--
444:2 - 444:17	--
454:2 - 454:11	--
454:17 - 454:25	--
455:3 - 455:14	--
456:12 - 456:23	--
456:25 - 456:25	--
474:16 - 474:19	--
474:21 - 474:25	--
475:2 - 475:2	--
475:4 - 475:12	--
475:14 - 475:20	--
475:22 - 475:25	--
476:2 - 476:17	--
479:17 - 479:25	--
480:2 - 480:15	--
516:19 - 516:25	--
517:2 - 517:11	--
517:13 - 517:14	--
JuxtaComm's Completeness/Counter Designations	375:15-17; 389:13-23; 390:17-391:5; 392:23-393:10; 393:19-24; 395:14-396:11; 397:11-398:3; 399:4-10; 411:3-6; 416:6-25; 418:16-19; 421:7-18; 427:12-17; 436:14-437:9; 438:19-21; 439:23-25; 454:12-16; 455:15-456:11; 518:3-5

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF IAN COLE Date of Deposition: April 17, 2009	
Page/Line Designation	Objections
5:15 – 8:22	--
39:12 – 40:4	--
40:23 – 43:19	FRE 401; 402; 403

44:22 – 45:7	--
46:10 – 47:4	--
47:19 – 48:5	FRE 401; 402; 403
49:5 – 49:17	FRE 401; 402; 403

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF TODD COLEMAN Date of Deposition: March 23, 2009	
Page/Line Designation	Objections
5:24 – 8:10	FRE 401; 402; 403: Waste of Time
9:2 – 9:9	FRE 401; 402; 403: Waste of Time
15:3 – 15:24	--
16:12 – 17:11	--
17:15 – 17:24	FRE 401; 402; 403: Confusing, Prejudicial
20:17 – 28:5	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 701; Vague; Ambiguous
29:21 – 30:4	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
30:24 – 32:14	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 801; 802
34:1 – 36:13	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 801; 802
57:25 – 59:24	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
64:4 – 64:24	--
65:9 – 65:21	--
71:22 – 74:6	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation; 801; 802
84:13 – 87:15	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation; Lack of Foundation; 801; 802
100:17 – 104:8	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation; Lack of Foundation; 801; 802
125:20 – 125:25	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation; Nonresponsive
126:4 – 126:21	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
129:14 – 129:18	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
133:2 – 133:15	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial
144:3 – 145:20	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
147:4 – 161:5	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
162:2 – 166:25	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE

	602; Speculation; Incomplete
167:12 – 176:3	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation
178:3 – 179:1	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial
180:10 – 183:24	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 701
188:21 – 189:15	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation; Lack of Foundation
193:6 – 195:7	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 801; 802
205:23 – 214:1	FRE 401; 402; 403: Waste of Time, Confusing, Prejudicial; FRE 602; Speculation; Lack of Foundation; FRE 801; 802; Nonresponsive; Leading; Vague; Ambiguous
JuxtaComm's Completeness/Counter Designations	18:9-20; 28:6-25; 30:5-16; 32:15-18; 44:18-24; 45:23-47:5; 59:25-60:2; 63:8-12; 126:22-23; 127:9-15; 128:11-129:2; 132:21-135:1; 162:1; 170:12-171:1; 172:12-22; 173:3-174:3; 176:4-178:1; 179:2-180:9; 183:25-184:12; 184:18-185:7; 185:19-22; 189:24-191:25; 195:8-24; 197:4-7; 214:6-215:8

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF GORDON COLOQUHOUN Date of Deposition: March 26, 2009	
Page/Line Designation	Objections
9:13 – 9:16	--
12:24 – 13:13	FRE 401
16:24 – 17:16	--
19:5 – 19:12	--
58:17 – 58:25	--
59:19 – 60:2	Objection to form, vague (59:19)
60:8 – 62:21	No foundation (61:10 & 62:11)
123:16 – 125:8	No foundation (123:16); FRE 401

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF PETER CRUMMEY Date of Deposition: March 23, 2009	
Page/Line Designation	Objections
6:7 – 6:11	--
10:7 – 10:18	--
10:23 – 10:24	--
11:1 – 11:21	--
12:2 – 12:24	--
13:1 – 13:15	--
14:11 – 14:12	--

23:1 – 23:17	--
25:23 – 25:24	--
26:1 – 26:24	--
27:1 – 27:5	--
27:14 – 27:24	FRE 401 (27:14-29:14)
28:1 – 28:24	FRE 401 (27:14-29:14)
29:1 – 29:14	FRE 401 (27:14-29:14)
30:9 – 30:19	--
31:19 – 31:20	Objection to Form, Vague
31:23 – 31:24	FRE 401; Objection to Form, Vague
32:1 – 32:9	FRE 401
33:9 – 33:20	--
34:3 – 34:16	--
36:5 – 36:11	FRE 701; Objection to Form, Vague, Calls for Speculation
39:18 – 39:24	--
40:1 – 40:14	Objection to Form, Vague, Ambiguous
40:16 – 40:24	Objection to Form, Vague, Ambiguous
41:1 – 41:11	--
43:2 – 43:12	--
75:1 – 75:4	FRE 602; Objection to Form, Vague; No Foundation
75:7 – 75:8	FRE 602; Objection to Form, Vague; No Foundation
94:17 – 94:19	FRE 701; No Foundation. Objection to Form, Vague, Calls for Speculation; FRE 602
94:21 – 94:24	FRE 701; No Foundation. Objection to Form, Vague, Calls for Speculation; FRE 602
95:1 – 95:11	FRE 701; No Foundation. Objection to Form, Vague, Calls for Speculation; FRE 602
95:13 – 95:24	FRE 701; No Foundation. Objection to Form, Vague, Calls for Speculation; FRE 602
109:5 – 109:24	FRE 401 (109:5-16; 109:23-110:3)
110:1 – 110:3	--
143: 18 – 143:24	No foundation
144:1 – 144:17	No foundation
144:23 – 144:24	--
145:1 – 145:24	--
146:1 – 146:24	--
147:1 – 147:1	--
147:10 – 147:13	FRE 401; 602
148:9 – 148:15	--
149:11 – 149:24	FRE 401
150:1 – 150:10	FRE 401
152:8 – 152:24	--
153:1 – 153:10	--
153:14 – 153:20	--
213:2 – 213:24	FRE 401 (entire line)

214:1 – 214:3	FRE 401 (entire line)
214:14 – 214:17	FRE 401 (entire line)
280:15 – 280:24	--
281:1 – 281:14	--
286:9 – 286:24	--
287:1 – 287:24	--
288:1 – 288:23	--
294:9 – 294:24	--
295:1 – 295:24	--
296:1 – 296:24	--
297:1 – 297:24	--
298:1 – 298:23	Objection to Form, Vague, Ambiguous
299:1 – 299:10	Objection to Form, Compound
299:13 – 299:24	--
300:1 – 300:24	--
301:1 – 301:24	--
302:1 – 302:17	--
308:1 – 308:24	--
309:1 – 309:21	--
312: 15 – 312:24	--
313:1 – 313:17	--
324:12 – 324:19	--
JuxtaComm Counter/Completeness Designations	309:22 – 309:24; 310:9 – 310:16; 324:20 – 325:9

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF PETER CRUMMEY Date of Deposition: March 24, 2009	
Page/Line Designation	Objections
376:23 – 376:25	Objection to Form, Vague
377:4 – 377:5	Objection to Form, Vague, Compound; No Foundation; FRE 602
377:7 – 377:17	--
377:20 – 377:22	Objection to Form, Vague
377:24 – 377:24	Objection to Form, Vague
427:3 – 427:10	--
427:18 – 427:25	--
428:2 – 428:10	--
428:25 – 428:25	--
429:2 – 429:25	--
430:2 – 430:23	--
510:21 – 510:25	--
511:2 – 511:9	Objection to Form, Line 6, Vague
511:12 – 511:21	--

530:24 – 530:25	--
531:2 – 531:22	--
533:18 – 533:22	--
536:23 – 536:25	FRE 401
537:2 – 537:16	FRE 401 (entire line); No foundation; Line 14, Objection to Form, Vague
537:19 – 537:22	--
553:20 – 553:25	--
554:2- 554:7	--
554:11 – 554:16	FRE 602; No Foundation
JuxtaComm Counter/Completeness Designations	426:18 – 426:25; 427:11 – 427:15; 430:24 – 431:13; 552:23 – 553:18

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF BARBARA DIRSA Date of Deposition: March 24, 2009	
Page/Line Designation	Objections
6:6 – 6:25	--
7:2 – 7:25	--
13:7 – 13:11	--
14:13 – 14:25	--
15:2 – 15:25	--
16:2 – 16:22	--
17:17 – 17:25	FRE 403: Prejudicial; ACP
18:2 – 18:16	--
19:15 – 19:21	--
21:10 – 21:12	--
22:22 – 22:25	FRE 401-403: Waste of Time, Confusion, Prejudicial
23:2 – 23:25	--
24:2 – 24:5	--
24:12 – 24:25	FRE 403: Prejudicial; 801; 802; ACP
25:2 – 25:25	FRE 403: Prejudicial; 801; 802; ACP
26:2 – 26:4	FRE 403: Waste of Time
26:7 – 26:12	--
27:14 – 27:25	FRE 403: Prejudicial; 801; 802; ACP
28:2 – 28:17	FRE 403: Prejudicial; 801; 802; ACP
28:21 – 28:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802
29:2 – 29:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802
30:2 – 30:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 602; 801; 802; Speculation; ACP
31:2 – 31:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE

	801; 802; ACP
32:2 – 32:4	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802; ACP
32:8 – 32:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802;
33:2 – 33:10	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802
33:13 – 33:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial
34:2 – 34:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802
35:2 – 35:25	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802
36:2 – 36:12	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial
38:21 – 38:25	FRE 403: Prejudicial; FRE 801; 802; ACP
39:2 – 39:25	FRE 403: Prejudicial; FRE 801; 802; ACP
40:2 – 40:25	FRE 403: Prejudicial; FRE 801; 802; ACP
41:2 – 41:25	FRE 403: Prejudicial; FRE 801; 802; ACP
42:2 – 42:17	--
48:17 – 48:25	--
49:2 – 49:19	--
50:11 – 50:25	--
51:2 – 51:4	--
53:24 – 53:25	FRE 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802; ACP
54:2 – 54:25	FRE 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802; ACP
55:2 – 55:5	FRE 403: Waste of Time, Confusion, Prejudicial; FRE 801; 802; ACP
56:13 – 56:25	FRE 801; 802
57:2 – 57:11	FRE 801; 802
JuxtaComm's Completeness/Counter Designations	18:17 – 19:14

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF BRIAN DONNELLY Date of Deposition: March 25, 2009	
Page/Line Designation	Objections
15:25 – 16:5	FRE 403: Confusion, Waste of Time, Prejudice
21:6 – 21:22	FRE 403: Confusion, Waste of Time, Prejudice
118:12 – 119:16	FRE 403: Confusion, Waste of Time, Prejudice

**DEPOSITION EXCERPTS FROM
DEPOSITION TESTIMONY OF MICHAEL DOYLE
Date of Deposition: September 24, 2009**

Page/Line Designation	Objections
14:9 – 14:10	--
15:5 – 17:16	--
19:1 – 19:14	--
21:16 – 21:18	--
24:6 – 24:13	--
25:24 – 29:4	--
29:15 – 30:17	--
31:16 – 31:24	--
34:5 – 34:6	--
35:17 – 35:21	--
36:4 – 36:25	--
38:11 – 39:6	--
40:4 – 41:19	--
41:23 – 42:4	--
42:14 – 42:23	--
49:11 – 49:19	--
52:20 – 53:1	--
56:17 – 56:23	Objection to form, vague
63:3 – 63:12	--
63:22 – 64:1	--
66:12 – 66:23	--
67:14 – 67:23	--
69:16 – 70:13	--
70:23 – 71:4	--
72:8 – 72:18	--
73:19 – 74:9	--
77:4 – 77:8	--
82:20 – 82:24	--
188:12 – 190:8	--
190:24 – 191:10	--
211:13 – 211:18	FRE 403, Confusion
273:13 – 273:19	--
285:14 – 286:21	255:14, FRE 801: Hearsay; 286:9 Same Objection
292:23 – 294:7	--
295:16 – 295:21	--

DEPOSITION EXCERPTS FROM
DEPOSITION TESTIMONY OF MICHAEL DOYLE
Date of Deposition: February 25, 2009

Page/Line Designation	Objections
8:3 – 8:19	--
9:4 – 9:25	--
10:2- 10:21	--
17:19 – 17:25	--
18:2 – 18:15	--
19:7 – 19:9	--
19:22 – 19:25	--
20:2 – 20:8	--
20:15 – 20:23	--
21:3 – 21:8	--
21:15 – 21:25	--
22:2 – 22:25	--
23:2 – 23:11	--
25:21 – 25:22	--
26:7 – 26:25	--
27:2 – 27:14	--
27:16 – 27:20	--
28:12 – 28:25	--
29:2 – 29:4	--
29:18 – 29:25	--
31:5 – 31:11	--
35:22 – 35:25	--
36:2 – 36:4	--
37:6 – 37:10	--
37:19 – 37:24	--
38:2 – 38:18	38:6 Objection to Form; Vague
40:3 – 40:8	--
40:19 – 40:25	Objection to Form, Vague, Compound
41:2 – 41:9	41:5 Objection to Form, Vague, Compound
41:12 – 41:19	41:17 Objection to Form, Calls for Speculation
41:21 – 41:25	--
42:2 – 42:4	--
44:20 – 44:25	--
45:2 – 45:2	--
45:22 – 45:25	--
46:2 – 46:17	--
53:5 – 53:24	--
55:15 – 55:25	--
56:2 – 56:9	--
56:18 – 56:23	--
58:14 – 58:16	--

58:23 – 58:25	--
59:2 – 59:22	--
67:6 – 67:12	--
137:22 – 137:25	--
138:2 – 138:17	--
144:20 – 144:25	--
145:2 – 145:5	--
157:14 – 157:25	--
158:2 – 158:11	--
172:23 – 172:24	--
173:11 – 173:25	--
174:2 – 174:25	--
175:2 – 175:19	--
180:20 – 180:24	--
181:9 – 181:20	--
181:24 – 181:25	--
182:2 – 182:25	--
183:2 – 183:25	--
184:2 – 184:5	--
184:8 – 184:25	--
185:2 – 185:25	--
188:17 – 188:25	--
189:2 – 189:22	189:10, FRE 801
192:15 – 192:23	--
193:8 – 193:14	--
194:24 – 194:25	--
195:2 – 195:4	--
196:3 – 196:21	--
198:6 – 198:25	--
199:2 – 199:3	--
201:25 – 201:25	--
202:2 – 202:22	--
207:6 – 207:9	--
207:11 – 207:17	--
208:25 – 208:25	--
209:2 – 209:6	--
209:8 – 209:25	--
210:2 – 210:25	--
211:2 – 211:25	--
212:2 – 212:21	--
213:2 – 213:25	--
214:2 – 214:25	--
215:2 – 215:25	--
216:2 – 216:25	--
217:2 – 217:9	--

223:6 – 223:25	--
224:2 – 224:2	--
233:17 – 233:25	--
234:2 – 234:4	--
239:13 – 239:21	--
243:6 – 243:25	--
244:2 – 244:9	--
252:7 – 252:10	--
252:14 – 252:16	--
252:23 – 252:25	--
253:2 – 253:25	--
254:2 – 254:9	--
254:19 – 254:23	--
255:13 – 255:25	--
256:2 – 256:13	--
266:25 – 266:25	--
267:2 – 267:25	--
268:2 – 268:25	--
269:2 – 269:3	--
270:22 – 270:25	--
271:2 – 271:25	271:21, Objection to Form, Vague, Compound
272:2 – 272:6	Same Objection to Form, Vague, Compound
272:8 – 272:10	--
298:9 – 298:22	--

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF MICHAEL DOYLE Date of Deposition: February 26, 2009	
Page/Line Designation	Objections
327:2 – 327:3	--
367:23 – 367:25	--
368:2 – 368:25	--
369:2 – 369:25	--
370:2 – 370:25	--
371:2 – 371:25	--
372:2 – 372:25	--
373:2 – 373:6	--
393:24 – 393:25	--
394:2 – 394:15	--
401:9 – 401:25	--
402:2 – 402:25	--
403:2 – 403:25	--
404:2 – 404:5	--
417:6 – 417:16	FRE 401

437:16 – 437:25	FRE 401; 403 Prejudice, Waste of Time
438:2 – 438:10	FRE 401; 403 Prejudice, Waste of Time
439:23 – 439:25	FRE 401; 403 Prejudice, Waste of Time
440:2 – 440:25	FRE 401; 403 Prejudice, Waste of Time
441:2 – 441:25	FRE 401; 403 Prejudice, Waste of Time
442:2 – 442:6	FRE 401; 403 Prejudice, Waste of Time
451:17 – 451:25	--
452:2 – 452:6	--
452:16 – 452:22	--
453:18 – 453:23	Objection to Form, Calls for speculation
454:17 – 454:24	--
455:22 – 455:25	--
456:2 – 456:17	--
460:14 – 460:25	--
461:2 – 461:8	--
462:4 – 462:25	--
463:2 – 463:3	--
463:19 – 463:25	--
464:2 – 464:12	--
465:11 – 465:16	--
466:7 – 466:25	--
467:2 – 467:25	--
468:2 – 468:6	--
482:20 – 482:25	--
483:2 – 483:25	--
484:2 – 484:25	--
485:2 – 485:2	--
486:24 – 486:25	FRE 401
487:2 – 487:14	FRE 401
496:9 – 496:25	--
497:2 – 497:25	--
498:2 – 498:21	--
500:18 – 500:25	--
501:2 – 501:4	--
501:20 – 501:25	--
502:2 – 502:25	--
503:2 – 503:25	--
504:2 – 504:3	--
513:5 – 513:25	--
514:2 – 514:25	--
515:2 – 515:19	--
523:7 – 523:25	FRE 401 Entire line; 524:15, FRE 401, 403
524:2 – 524:18	FRE 401 Entire line; 524:15, FRE 401, 403
526:5 – 526:25	--
527:2 – 527:4	--

527:12 – 527:18	--
528:2 – 528:7	--
528:24 – 528:25	--
529:2 – 529:22	--

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF ELAYNE DUDLEY Date of Deposition: March 25, 2009	
Page/Line Designation	Objections
5:8 – 5:14	--
7:17 – 8:9	--
10:7 – 11:20	--
12:4 – 13:24	--
15:5 – 16:5	FRE 403: Confusion, Waste of Time, Prejudice
16:7 – 16:13	FRE 403: Confusion, Waste of Time, Prejudice
16:15 – 16:18	FRE 403: Confusion, Waste of Time, Prejudice
16:20-18:4	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
18:7 – 22:25	FRE 401; 402; 403
23:9 – 24:4	FRE 401; 402; 403
24:6 – 24:16	--
25:8 – 25:13	FRE 401; 402
25:24 – 26:8	--
26:16 – 27:5	FRE 401; 402; 403
27:8 – 27:13	FRE 401; 402; 403
28:21 – 29:6	FRE 401; 402; 403
31:11 – 31:24	FRE 401; 402; 403
32:1 – 32:6	FRE 401; 402; 403
32:8 – 32:11	FRE 401; 402; 403
32:20 – 33:9	FRE 401; 402; 403
33:11 – 33:11	FRE 401; 402; 403
35:4 – 36:1	FRE 401; 402; 403
36:3 – 36:3	FRE 401; 402; 403
44:13 – 45:21	FRE 401; 402; 403
45:24 – 47:11	FRE 401; 402; 403
48:14 – 48:25	FRE 401; 402; 403

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF MICHAEL DYBOWSKI Date of Deposition: March 25, 2009	
Page/Line Designation	Objections
5:9 – 5:11	--
6:8 – 6:12	--
6:24 – 8:13	--

12:13 – 13:10	--
14:12 – 15:6	--
29:18 – 29:19	FRE 403: Confusion, Waste of Time, Prejudice
30:4 – 30:7	FRE 403: Confusion, Waste of Time, Prejudice
30:23 – 31:5	FRE 403: Confusion, Waste of Time, Prejudice
31:11 – 31:14	FRE 403: Confusion, Waste of Time, Prejudice
31:17 – 31:17	FRE 403: Confusion, Waste of Time, Prejudice
31:20 – 31:22	FRE 403: Confusion, Waste of Time, Prejudice
32:3 – 32:12	FRE 403: Confusion, Waste of Time, Prejudice
32:22 – 33:1	FRE 403: Confusion, Waste of Time, Prejudice
33:14 – 33:17	--
33:20 – 33:22	--
33:24 – 34:1	FRE 403: Confusion, Waste of Time, Prejudice
34:14 – 34:15	FRE 403: Confusion, Waste of Time, Prejudice
43:24 – 44:6	FRE 403: Confusion, Waste of Time, Prejudice
44:11 – 44:21	FRE 403: Confusion, Waste of Time, Prejudice
48:5 – 48:10	--
48:13 – 48:17	--
49:6 – 49:14	--
JuxtaComm's Counter/Completeness Designations	30:8 – 30:11; 30:13 – 30:22; 31:6 – 31:10; 32:13 – 32:14; 33:2 – 33:6; 34:3 – 34:13; 34:16 – 34:20

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF STEVEN EGNA Date of Deposition: March 19, 2009	
Page/Line Designation	Objections
5:9 – 5:23	--
6:8 – 6:25	--
7:2 – 7:25	--
8:2 – 8:25	--
9:2 – 9:25	--
10:2 – 10:25	--
11:2 – 11:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
12:2 – 12:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
13:2 – 13:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
14:2 – 14:6	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
17:2 – 17:6	FRE 403, Cumulative
19:15 – 19:25	FRE 401
20:2 – 20:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801
21:2 – 21:6	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 701, 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
21:8 – 21:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701;

	801; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
22:2 – 22:3	FRE 401; 403: Prejudice, Confusion, Waste of Time
23:8 – 23:11	FRE 401; 403: Prejudice, Confusion, Waste of Time
25:19 – 25:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
26:2 – 26:20	FRE 401; 403: Prejudice, Confusion, Waste of Time; 602; 701, Objection to Form: Mischaracterizes Prior Testimony, Ambiguous, Vague, Calls for Speculation
26:22 – 26:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701, Objection to Form: Mischaracterizes Prior Testimony, Ambiguous, Vague, Calls for Speculation
27:2 – 27:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
28:2 – 28:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
29:2 – 29:10	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
29:21 – 29:25	FRE 401; 403: Cumulative, Waste of Time
30:2 – 30:22	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
32:22 – 32:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
33:2 – 33:3	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
36:20 – 36:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
37:2 – 37:15	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; 801
40:23 – 40:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
41:2 – 41:9	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Ambiguous, Vague
41:11 – 41:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Ambiguous, Vague
42:2 – 42:5	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Ambiguous, Vague
42:7 – 42:17	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Ambiguous, Vague
42:19 – 42:22	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Ambiguous, Vague
42:24 – 42:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Ambiguous, Vague
43:2 – 43:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
44:2 – 44:13	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
47:8 – 47:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801

48:2 – 48:15	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801
49:12 – 49:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
50:2 – 50:11	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
50:13 – 50:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
51:2 – 51:21	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
51:23 – 51:24	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
52:2 – 52:11	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
53:17 – 53:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; 801, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
54:3 – 54:4	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; 801, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
54:8 – 54:11	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; 801, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
54:13 – 54:14	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
54:16 – 54:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
55:2 – 55:7	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701; Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
55:9 – 55:11	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
56:10 – 56:25	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous
57:2 – 57:24	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801, Objection to Form: Calls for Speculation, Mischaracterizes Prior Testimony, Vague, Ambiguous

58:2 – 58:25	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
59:2 – 59:15	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
81:17 – 81:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701 801
82:2 – 82:7	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
82:9 – 82:25	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
83:2 – 83:21	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
84:13 – 84:15	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701 Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
84:17 – 84:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701 Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
85:2 – 85:17	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
85:20 – 85:24	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
87:4 – 87:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
88:2 – 88:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
89:2 – 89:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
90:2 – 90:23	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
90:25 – 90:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
91:2 – 91:6	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
91:8 – 91:16	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
91:19 – 91: 25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
92:2 – 92:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
93:2 – 93:9	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602;

	701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
93:11 – 93:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
94:2 – 94:3	FRE 401; FRE 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
96:25 – 96:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
97:2 – 97:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
98:2 – 98:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701
99:2 – 99:4	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
99:6 – 99:8	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
99:10 – 99:12	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
99:14 – 99:14	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 602; 701; Objection to Form: Mischaracterizes Prior Testimony, Calls for Speculation, Vague, Ambiguous
100:18 – 100:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 701
101:2 – 101:14	FRE 401; 403: Prejudice, Confusion, Waste of Time, FRE 701, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
101:16 – 101:24	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602, 701, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
102:3 – 102:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
103:2 – 103:7	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
103:13 – 103:15	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
103:17 – 103:23	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior

	Testimony
103:25 – 103:25	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
104:2 – 104:8	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
104:10 – 104:25	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
105:2 – 105:14	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
105:16 – 105:17	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
105:19 – 105:25	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DARIN ELLIS Date of Deposition: September 22, 2008	
Page/Line Designation	Objections
13:17 – 13:21	--
14:1 – 14:4	--
14:17 – 14:22	--
14:25 – 15:4	--
15:19 – 15:24	--
16:24 – 17:15	--
17:25 – 18:11	--
18:20 – 19:3	--
20:23 – 21:14	--
21:23 – 21:25	--
23:16 – 23:19	--
23:22 – 23:23	--
24:4 – 25:5	--
25:8 – 25:16	--
25:18 – 26:3	--

26:17 – 27:15	--
28:1 – 28:11	--
28:19 – 28:22	--
31:21 – 32:8	--
38:18 – 38:23	--
39:9 – 39:11	--
39:16 – 40:16	--
45:19 – 45:22	--
46:8 – 46:13	--
46:17 – 46:19	Objection to Form, Vague, Ambiguous
46:21 – 46:22	--
46:24 – 47:1	--
47:24 – 48:4	--
51:9 – 51:16	51:13, Objection to Form, Mischaracterizes Prior Testimony
51:18 – 51:19	Objection to Form, Mischaracterizes Prior Testimony
54:8 – 55:6	--
55:13 – 55:16	Objection to Form, Vague, Ambiguous
55:18 – 55:20	Objection to Form, Vague, Ambiguous
55:22 – 56:1	55:24, Objection to Form, Vague, Ambiguous
56:3 – 56:6	Objection to Form, Vague, Ambiguous
60:3 – 61:11	--
62:16 – 63:6	--
64:9 – 66:18	--
67:3 – 68:15	--
69:1 – 69:8	--
69:20 – 70:2	--
70:4 – 70:10	--
70:24 – 71:9	--
79:19 – 80:6	--
80:10 – 80:11	--
82:17 – 82:20	--
83:15 – 85:2	--
85:6 – 85:9	--
88:1 – 88:6	--
90:22 – 91:12	--
92:4 – 92:9	--
93:20 – 94:2	--
95:5 – 95:15	--
102:15 – 103:14	--
103:16 – 103:20	103:12, Objection to Form, Vague
116:13 – 116:16	--
132:18 – 132:22	--
135:13 – 136:3	--
139:17 – 140:16	--
150:5 – 150:7	--

150:13 – 151:5	--
193:22 – 195:1	--
195:3 – 195:20	--
196:15 – 197:13	--
197:18 – 198:10	--
198:25 – 199:22	199:7, FRE 801
199:25 – 200:19	200:11, Non-responsive
200:21 – 201:6	Non-responsive
201:8 – 201:8	Non-responsive
201:10 – 201:12	Non-responsive
201:15 – 202:19	--
231:18 – 232:19	--
245:25 – 246:25	--
249:1 – 249:12	--
249:24 – 250:5	--
251:3 – 251:9	--
260:12 – 260:14	--
262:8 – 262:13	--
263:16 – 263:25	263:16, Objection to Form, Vague, Ambiguous
269:21 – 270:6	--
270:14 – 271:10	--
272:5 – 272:8	--
272:25 – 273:3	--
277:25 – 279:12	--
280:1 – 280:9	--
280:16 – 281:2	--
282:6 – 283:3	--
283:11 – 283:14	--

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DARIN ELLIS Date of Deposition: February 23, 2009	
Page/Line Designation	Objections
8:3 – 8:5	--
8:24 – 8:25	--
9:2 – 9:25	--
10:2 – 10:17	--
10:21 – 10:25	--
11:2 – 11:5	--
11:7 – 11:25	--
12:2 – 12:25	--
13:2 – 13:25	--
14:2 – 14:25	--
15:2 – 15:25	--

16:2 – 16:8	--
17:7 – 17:12	--
22:11 – 22:25	--
23:2 – 23:13	--
25:2 – 25:11	--
27:6 – 27:14	--
28:5 – 28:7	--
30:5 – 30:12	--
34:14 – 34:25	34:14, Objection to Form, Vague, Ambiguous.
35:2 – 35:13	--
42:19 – 42:25	--
43:2 – 43:11	--
44:4 – 44:11	--
44:13 – 44:20	--
55:3 – 55:25	--
56:2 – 56:25	56:20, Objection to Form, Ambiguous, Vague
57:2 – 57:25	57:16, Objection to Form, Mischaracterizes Prior Testimony
58:2 – 58:4	--
58:15 – 58:25	--
59:2 – 59:18	--
61:10 – 61:17	--
77:22 – 77:25	--
78:2 – 78:18	--
86:13 – 86:25	--
87:2 – 87:25	--
88:2 – 88:4	--
102:4 – 102:9	--
102:17 – 102:20	--
104:10 – 104:13	--
104:16 – 104:19	--
104:23 – 104:25	--
106:6 – 106:10	--
107:2 – 107:11	Objection to Form, Compound, Calls for Speculation
107:13 – 107:22	--
107:25 – 107:25	--
108:2 – 108:12	--
108:17 – 108:20	--
109:5 – 109:14	--
110:6 – 110:21	--
114:9 – 114:19	--
115:12 – 115:25	--
116:2 – 116:3	--
117:10 – 117:25	--
118:2 – 118:25	--
119:2 – 119:3	--

130:6 – 130:25	--
131:2 – 131:18	--
133:17 – 133:24	--
136:24 – 136:25	--
137:2 – 137:6	--
138:2 – 138:25	--
148:4 – 148:13	--
150:7 – 150:25	--
151:2 – 151:11	--
152:20 – 152:25	--
153:2 – 153:15	--
153:21 – 153:25	--
154:2 – 154:25	--
155:2 – 155:25	--
156:2 – 156:4	--
160:17 – 160:21	--
160:24 – 160:25	--
161:2 – 161:25	161:2, Objection to Form, Compound, Vague.
162:2 – 162:2	--
167:21 – 167:24	--
168:14 – 168:25	--
169:2 – 169:7	--
170:2 – 170:25	--
171:2 – 171:5	--
173:2 – 173:11	--
173:19 – 173:25	--
174:2 – 174:9	--
176:2 – 176:12	--
181:3 – 181:12	--
181:16 – 181:25	--
182:2 – 182:10	--
182:12 – 182:25	--
183:2 – 183:7	--
183:10 – 183:12	--
189:9 – 189:25	--
190:2 – 190:7	--
192:17 – 192:25	--
193:2 – 193:10	--
193:12 – 193:13	--
194:2 – 194:9	--
194:11 – 194:24	194:20, Objection to Form, Ambiguous, Vague
195:2 – 195:4	--
196:12 – 196:18	196:12, Objection to Form, Calls for Speculation
196:20 – 196:25	--
197:2 – 197:4	--

197:6 – 197:8	--
197:10 – 197:25	--
198:2 – 198:16	--
198:18 – 198:20	--
198:23 – 198:25	--
199:2 – 199:4	--
199:12 – 199:23	199:12, Objection to Form, Compound
199:25 – 199:25	--
200:2 – 200:2	--
201:2 – 201:22	--
202:17 – 202:25	--
203:2 – 203:2	--
204:24 – 204:25	--
205:2 – 205:4	--
207:20 – 207:25	--
208:2 – 208:8	--
209:5 – 209:9	--
209:12 – 209:25	--
210:2 – 210:3	--
210:5 – 210:23	--
211:17 – 211:25	--
212:2 – 212:25	--
213:2 – 213:3	--
213:9 – 213:17	--
221:7 – 221:22	--
237:18 – 237:25	--
238:2 – 238:11	--
238:13 – 238:16	--
238:18 – 238:23	--
238:25 – 238:25	--
239:2 – 239:25	--
240:2 – 240:3	--
242:6 – 242:17	--
242:20 – 242:25	--
243:2 – 243:4	--
244:5 – 244:14	--
246:4 – 246:5	--
246:8 – 246:10	--
247:22 – 247:25	--
252:9 – 252:25	--
253:2 – 253:14	--
253:16 – 253:25	--
254:2 – 254:3	--
264:18 – 264:21	--
265:2 – 265:13	--

269:5 – 269:11	--
270:8 – 270:15	--
328:19 – 328:22	--
336:24 – 336:25	--
337:2 – 337:17	--
338:9 – 338:25	--
339:2 – 339:2	--
343:20 – 343:25	--
344:2 – 344:3	--
352:4 – 352:25	--
353:2 – 353:10	--
355:8 – 355:25	--
356:2 – 356:25	--
357:2 – 357:25	--
358:2 – 358:25	358:18, FRE 801; 358:24, Objection to Form, Mischaracterizes Prior Testimony
359:2 – 359:3	--
359:5 – 359:11	359:7, FRE 801
359:13 – 359:14	--
360:14 – 360:25	--
361:2 – 361:25	361:22, FRE 801
362:2 – 362:18	362:15, FRE 801
362:24 – 362:25	--
363:2 – 363:4	--
JuxtaComm's Counter/Completeness Designations	139:13 – 139:16; 271:17 – 272:4; 272:9 – 273:15; 284:4 – 285:11.

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DARIN ELLIS Date of Deposition: February 24, 2009	
Page/Line Designation	Objections
391:23 – 391:24	--
400:7 – 400:24	--
401:5 – 401:11	--
436:8 – 436:25	--
437:2 – 437:25	--
438:2 – 438:25	--
439:2 – 439:25	--
440:2 – 440:23	--
442:23 – 442:25	--
443:2 – 443:24	--
444:11 – 444:25	--
445:2 – 445:15	--

446:7 – 446:25	--
447:2 – 447:2	--
458:23 – 458:25	--
459:21 – 459:25	--
460:2 – 460:22	--
461:3 – 461:11	--
466:10 – 466:25	--
467:2 – 467:16	--
468:9 – 468:16	--
490:17 – 490:25	--
491:2 – 491:25	--
492:2 – 492:16	--
502:2 – 502:25	--
503:2 – 503:25	--
504:2 – 504:25	--
505:2 – 505:25	--
506:2 – 506:15	--
506:17 – 506:25	--
507:2 – 507:25	--
508:2 – 508:3	--
513:11 – 513:25	--
514:2 – 514:25	--
515:2 – 515:5	--
531:7 – 531:25	--
532:2 – 532:22	--
533:13 – 533:25	--
534:2 – 534:9	--
536:11 – 536:25	--
537:2 – 537:12	--
540:9 – 540:13	--
540:21 – 540:25	--
541:2 – 541:13	--
541:15 – 541:16	--
550:12 – 550:25	--
551:2 – 551:25	--
552:2 – 552:13	--
576:13 – 576:25	--
577:2 – 577:25	--
578:2 – 578:25	578:24, Objection to Form, Mischaracterizes Prior Testimony.
579:2 – 579:25	--
580:2 – 580:25	--
581:2 – 581:12	--
625:25 – 625:25	--
626:2 – 626:3	--
627:19 – 627:25	--

629:18 – 629:25	FRE 701: Objection to Form, Calls For Speculation; FRE 403
630:6 – 630:8	--
631:2 – 630:10	FRE 701; 403. Objection to Form, Compound, Calls For Speculation
632:12 – 632:25	FRE 701; 403; 401
633:2 – 633:8	FRE 701; 403; 401
635:8 – 635:14	FRE 401; 403; 701
653:5 – 653:14	--
JuxtaComm's Counter/Completeness Designations	459:1 – 459:20; 467:17 – 468:4

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF JAMES GIBSON Date of Deposition: March 26, 2009	
Page/Line Designation	Objections
5:21 – 5:22	--
54:1 – 54:9	FRE 401; 402; 403
55:8 – 55:16	FRE 401; 402; 403
56:1 – 57:3	--
58:9 – 59:10	--
61:20 – 62:24	FRE 401; 402; 403
72:7 – 73:2	--
82:1 – 82:17	FRE 401; 402; 403

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF VLADIMIR GORELIK Date of Deposition: April 17, 2009	
Page/Line Designation	Objections
8:23 – 8:24	--
10:5 – 13:20	--
14:6 – 15:7	FRE 403: Confusion, Prejudicial; Leading
15:10 – 15	FRE 403: Confusion, Prejudicial; Leading
16:1 – 16:21	Vague; Ambiguous
16:23-19:12	FRE 403: Confusion, Prejudicial; Leading; Vague; Ambiguous
19:17 – 20:4	FRE 403: Confusion, Prejudicial; Leading
20:14 – 22:18	FRE 403: Confusion, Prejudicial
22:20 – 23:10	FRE 403: Confusion, Prejudicial; Vague; Ambiguous; Leading
23:13 – 24:16	Nonresponsive
24:20 – 24:23	FRE 403: Confusion, Prejudicial
25:1 – 26:18	FRE 403: Confusion, Prejudicial
26:21 – 27:3	FRE 403: Confusion, Prejudicial
27:6 – 27:10	FRE 403: Confusion, Prejudicial

27:12 – 27:20	FRE 403: Confusion, Prejudicial
27:23 – 28:12	FRE 403: Confusion, Prejudicial
28:15 – 28:23	FRE 403: Confusion, Prejudicial
29:1 – 30:8	FRE 403: Confusion, Prejudicial
30:11-31:8	Leading
31:10 – 31:16	Leading; Nonresponsive
31:19 – 36:8	FRE 403: Confusion, Prejudicial
36:11 – 39:1	FRE 403: Confusion, Prejudicial; Nonresponsive
39:4 – 39:14	--
39:17 – 39:18	--
39:22 – 39:22	--
39:25 – 42:17	--
42:21 – 43:2	--
43:5 – 43:5	--
43:7 – 43:9	Nonresponsive
43:12 – 43:23	--
44:6 – 44:12	FRE 801; 802; Lack of Foundation
44:16 – 46:21	FRE 403: Confusion, Prejudicial; 602; 801; 802; Lack of Foundation; Speculation; Vague; Ambiguous
46:25 – 47:7	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
47:11 – 47:17	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
47:21 – 48:2	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
48:6 – 48:17	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
48:21 – 49:14	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
49:18 – 50:6	FRE 403: Confusion, Prejudicial; 602; Speculation; Vague; Ambiguous
50:9 – 50:11	FRE 403: Confusion, Prejudicial; 602; Speculation; Vague; Ambiguous
50:14 – 50:19	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
50:22 – 51:2	FRE 403: Confusion, Prejudicial; Vague; Ambiguous; Nonresponsive
51:7 – 52:14	--
52:17 – 52:19	FRE 403: Confusion, Prejudicial; 602; Speculation; Vague; Ambiguous
52:21 – 53:5	FRE 403: Confusion, Prejudicial; 602; Speculation; Vague; Ambiguous
53:9 – 54:25	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
55:4 – 55:8	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
55:12 – 55:25	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
56:2 – 56:5	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
56:21 – 58:22	FRE 403: Confusion, Prejudicial; 602; 801; 802; Speculation; Lack of Foundation; Vague; Ambiguous
58:25 – 59:23	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
59:25 – 60:3	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
60:5 – 63:5	FRE 403: Confusion, Prejudicial; 801; 802; Vague; Ambiguous

63:8 – 65:5	FRE 403: Confusion, Prejudicial; 801; 802; Vague; Ambiguous
65:8 – 66:21	FRE 403: Confusion, Prejudicial; 801; 802; Vague; Ambiguous
66:23 – 67:18	Nonresponsive
67:21 – 68:18	FRE 403: Confusion, Prejudicial; 801; 802; Vague; Ambiguous; Leading
68:20 – 70:14	FRE 403: Confusion, Prejudicial; 801; 802; Vague; Ambiguous; Nonresponsive
70:17 – 70:20	Leading
71:6 – 73:18	FRE 403: Confusion, Prejudicial; 801; 802; Vague; Ambiguous; Leading
85:10 – 85:24	FRE 401; 402; 403: Waste of Time
93:23 – 94:8	--
125:25 – 126:4	FRE 403: Confusion, Prejudicial; Vague; Ambiguous
129:20 – 136:17	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial
137:1 – 137:22	Nonresponsive
138:3 – 139:13	--
146:5 – 150:15	Nonresponsive
151:12 – 154:2	FRE 403: Confusion, Prejudicial
155:24 – 163:14	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial; FRE 602; Speculation
168:12 – 169:7	--
175:9-176:4	FRE 401; 402; 403: Waste of Time, Confusion, Prejudicial
180:14 – 180:24	Leading
181:3 – 182:22	Nonresponsive; Leading
JuxtaComm's Completeness/Counter Designations	80:12-18; 81:1-2; 81:6-16; 83:5-16; 84:19-85:9; 85:25-86:1; 88:15-89:9; 91:22-92:3; 98:16-25; 102:21-24; 104:10-105:19; 106:15-107:1; 107:25-108:8; 108:14-109:4; 109:25-110:18; 113:17-114:18; 120:22-121:19; 123:17-124:20; 125:14-24; 126:5-20; 136:18-25; 137:24-138:2; 140:1-4; 141:12-18; 142:5-19; 143:1-2; 145:10-146:4; 150:24-151:8; 154:3-8; 167:1-6; 172:11-173:4; 173:23-174:4; 176:5-15; 179:5-10; 179:16-22

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF EDWARD GRANKA Date of Deposition: March 20, 2009	
Page/Line Designation	Objections
5:10 – 5:15	--
6:6 – 6:25	--
7:2 – 7:3	--
9:7 – 9:17	FRE 401, 403: Prejudice, Confusion, Waste of Time
10:15 – 10:25	FRE 401, 403: Prejudice, Confusion, Waste of Time
11:2 – 11:20	FRE 401, 403: Prejudice, Confusion, Waste of Time
13:17 – 13:25	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 801
14:2 – 14:11	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 801

17:12 – 17:25	FRE 401, 403: Prejudice, Confusion, Waste of Time
18:2 – 18:5	FRE 401, 403: Prejudice, Confusion, Waste of Time
19:13 – 19:18	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, Objection to Form: Mischaracterizes Prior Testimony; Vague; Ambiguous; Calls for Speculation
19:20 – 19:20	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, Objection to Form: Mischaracterizes Prior Testimony; Vague; Ambiguous; Calls for Speculation

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF MICHAEL HOSKINS Date of Deposition: April 7, 2009	
Page/Line Designation	Objections
8:9 – 18:17	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice; Nonresponsive
18:19 – 19:10	Nonresponsive
19:12 – 19:15	--
19:17 – 20:8	Nonresponsive
20:10 – 20:12	FRE 403: Confusion, Prejudice
20:15 – 21:7	FRE 403: Confusion, Prejudice; Nonresponsive
21:9 – 21:11	FRE 403: Confusion, Prejudice; Leading
21:14 – 22:10	FRE 403: Confusion, Prejudice; Nonresponsive; Leading
22:12 – 23:16	Nonresponsive
23:18 – 25:12	Misstates testimony
25:14 – 27:19	FRE 403: Confusion, Prejudice; Leading; Misstates testimony
27:22 – 29:14	FRE 403: Confusion, Prejudice; Leading; Nonresponsive
29:16 – 29:19	FRE 403: Confusion, Prejudice; Leading
29:22 – 29:25	FRE 403: Confusion, Prejudice; Leading
30:2 – 30:17	FRE 403: Confusion, Prejudice; Leading; Nonresponsive
30:19 – 32:11	FRE 403: Confusion, Prejudice
32:13 – 32:13	FRE 403: Confusion, Prejudice
32:15 – 33:7	FRE 403: Confusion, Prejudice
33:10 – 40:15	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
42:16 – 46:16	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice; FRE 602; Speculation
47:10 – 51:11	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
51:13 – 51:13	--
51:16 – 51:24	--
52:3 – 53:18	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
53:20 – 57:8	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice; Nonresponsive
57:10 – 59:9	Nonresponsive
59:10 – 59:11	--
59:14 – 59:16	--

59:18 – 61:8	Nonresponsive
61:10 – 65:6	FRE 602; Speculation
65:8 – 67:17	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice; Leading
67:19 – 73:18	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice; FRE 602; Speculation; Nonresponsive
74:20 – 74:25	Nonresponsive
75:2 – 76:13	Nonresponsive
76:15 – 76:20	FRE 403: Confusion, Prejudice; Leading; Vague; Ambiguous
76:23 – 77:11	FRE 403: Confusion, Prejudice; Leading; Vague; Ambiguous; Nonresponsive
77:13 – 77:16	--
77:18 – 78:2	Leading
78:4 – 79:19	FRE 403: Confusion, Prejudice; Nonresponsive
79:21 – 79:25	FRE 403: Confusion, Prejudice
80:3 – 81:10	FRE 403: Confusion, Prejudice; Nonresponsive
81:12 – 81:14	--
94:21 – 95:13	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
101:19 – 102:22	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
102:24 – 104:23	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
106:16 – 112:3	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice
112:5 – 127:18	FRE 401; 402; 403: Waste of Time, Confusion, Prejudice; FRE 602; Speculation
JuxtaComm's Completeness/Counter Designations	84:9-17; 85:6-89:1; 89:21-90:17; 91:4-11; 127:19-129:14; 132:10-133:5; 181:10-183:12

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF MICHAEL HOSKINS Date of Deposition: April 22, 2009	
Page/Line Designation	Objections
171:8 – 172:13	
176:25 – 177:18	
179:15 – 180:7	
180:14 – 181:9	
183:13 – 204:11	
205:7 – 230:16	

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DARREN JACKSON Date of Deposition: June 26, 2009	
Page/Line Designation	Objections
7:1 – 7:8	--

10:2 – 11:14	FRE 401, 403: Prejudice, Confusion, Waste of Time, Objection to Form: Vague; Ambiguous
11:18 – 12:2	FRE 401, 403: Prejudice, Confusion, Waste of Time, Objection to Form: Vague; Ambiguous
12:7 – 14:12	FRE 401, 403: Prejudice, Confusion, Waste of Time
17:22 – 18:8	FRE 401
18:24 – 20:23	FRE 401, 403: Prejudice, Confusion, Waste of Time
26:21 – 27:6	FRE 401, 403: Prejudice, Confusion, Waste of Time
29:22 – 30:5	FRE 401, 403: Prejudice, Confusion, Waste of Time
33:3 – 33:10	--
36:11 – 38:9	FRE 401, 403: Prejudice, Confusion, Waste of Time
65:19 – 67:17	FRE 401, 403: Prejudice, Confusion, Waste of Time
81:14 – 85:15	FRE 401, 403, Objection to Form: Mischaracterizes Prior Testimony; Calls for Speculation; Vague; Ambiguous
85:18 – 85:21	FRE 401, 403: Prejudice, Confusion, Waste of Time
89:14 – 90:3	FRE 401, 403: Prejudice, Confusion, Waste of Time
91:9 – 94:1	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 801
96:10 – 97:7	FRE 401, 403: Prejudice, Confusion, Waste of Time
101:10 – 102:3	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602
104:7 – 105:7	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602
145:24 – 146:17	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602
147:13 – 147:25	FRE 401, 403: Prejudice, Confusion, Waste of Time

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF RICHARD KAYE Date of Deposition: February 20, 2009	
Page/Line Designation	Objections
7:25 – 8:6	--
12:13 – 12:19	--
16:16 – 18:12	--
19:9 – 19:19	--
35:17 – 36:3	FRE 401; 402; 403
70:6 – 71:7	FRE 401; 402; 403
71:11 – 71:17	FRE 401; 402; 403
99:19 – 102:3	FRE 401; 402; 403
109:5 – 109:20	--
109:24 – 110:1	FRE 401; 402; 403
110:12 – 110:21	FRE 401; 402; 403
112:6 – 112:13	FRE 401; 402; 403
112:23 – 113:11	FRE 401; 402; 403; 602
121:13 – 121:15	FRE 401; 402; 403; 602; Calls for Speculation
121:20 – 121:21	FRE 401; 402; 403; 602; Calls for Speculation
135:3 – 135:13	FRE 401; 402; 403; 602
159:5 – 161:23	FRE 401; 402; 403

163:5 – 164:16	FRE 401; 402; 403
167:11 – 167:14	FRE 602

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF ROBERT KOBLOVSKY Date of Deposition: February 27, 2009	
Page/Line Designation	Objections
6:17 – 6:19	--
12:10 – 12:25	FRE 401; 402; 403
13:2 – 13:5	FRE 401; 402; 403
13:24 – 13:25	--
14:2 – 14:6	--
15:11 – 15:25	FRE 401; 402; 403
16:2 – 16:2	FRE 401; 402; 403
17:14 – 17:25	FRE 401; 402; 403
18:2 – 18:4	FRE 401; 402; 403
25:10 – 25:25	FRE 401; 402; 403
26:2 – 26:3	FRE 401; 402; 403
28:6 – 28:25	FRE 401; 402; 403
29:2 – 29:25	FRE 401; 402; 403
30:2 – 30:4	--
31:15 – 31:25	--
32:2 – 32:5	--
44:2 – 44:15	FRE 401; 402; 403: Waste of Time
44:22 – 44:25	FRE 401; 402; 403: Waste of Time
45:2 – 45:18	FRE 401; 402; 403; 701
46:19 – 46:25	FRE 401; 402; 403; 701
47:2 – 47:12	FRE 401; 402; 403; 701
50:2 – 50:8	FRE 401; 402; 403; 701
51:16 – 51:25	FRE 401; 402; 403; 701
52:2 – 52:3	FRE 401; 402; 403; 701
108:9 – 108:25	FRE 401; 402; 403; 701
109:2 – 109:3	FRE 401; 402; 403; 701
JuxtaComm's Counter/Completeness Designations	105:20 – 105:25; 106:2 – 106:25; 107:2 – 107:25; 108:2 – 108:8

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DOOYONG LEE Date of Deposition: June 17, 2009	
Page/Line Designation	Objections
11:20 – 12:24	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 701, Objection to Form

13:21 – 14:11	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 701, Objection to Form
15:17 – 15:20	FRE 401, 403: Prejudice, Confusion, Waste of Time
17:22 – 19:2	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 801
19:7 – 19:10	FRE 401, 403: Prejudice, Confusion, Waste of Time, Objection to Form
19:17 – 19:18	FRE 401, 403: Prejudice, Confusion, Waste of Time, Objection to Form
19:20 – 20:25	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 801
21:13 – 21:16	FRE 401, 403: Prejudice, Confusion, Waste of Time
23:16 – 25:11	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
25:25 – 28:7	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
29:23 – 30:16	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 801
30:25 – 31:12	FRE 401, 403: Prejudice, Confusion, Waste of Time
32:13 – 33:14	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
34:14 – 35:7	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
35:17 – 35:20	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
36:8 – 36:20	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
36:22 – 36:22	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
36:24 – 36:25	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
37:19 – 37:20	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
41:17 – 42:19	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 02, 701, 801, Objection to Form: Calls for Speculation
42:24 – 43:10	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Calls for Speculation
43:12 – 43:17	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Calls for Speculation
45:22 – 46:13	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801
46:18 – 47:18	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Calls for Speculation
47:21 – 47:22	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602,

	701, 801, Objection to Form: Calls for Speculation
48:12 – 49:17	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 801
49:22 – 50:20	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 801
55:9 – 56:18	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Calls for Speculation
56:21 – 56:22	FRE 401, 403: Prejudice, Confusion, Waste of Time, FRE 602, 701, 801, Objection to Form: Calls for Speculation

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF PAUL LERNER Date of Deposition: March 20, 2009	
Page/Line Designation	Objections
16:17 – 16:25	--
96:2 – 97:18	FRE 401, 403: Prejudice, Confusion, Waste of Time; FRE 701
111:18 – 112:18	FRE 401, 403: Prejudice, Confusion, Waste of Time
120:8 – 121:7	FRE 401, 403: Prejudice, Confusion, Waste of Time
123:10 – 123:18	FRE 401, 403: Prejudice, Confusion, Waste of Time; FRE 701

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF ROBERT LUND Date of Deposition: April 14, 2009	
Page/Line Designation	Objections
5:13 – 5:15	--
6:16 – 6:25	--
7:2 – 7:25	--
8:2 – 8:25	--
9:2 – 9:25	--
10:2 – 10:25	--
11:2 – 11:18	--
15:2 – 15:25	--
16:2 – 16:7	--
17:17 – 17:25	--
18:2 – 18:5	--
20:25 – 20:25	--
21:2 – 21:9	--
24:15 – 24:25	--
25:2 – 25:13	--
25:18 – 25:25	--
26:2 – 26:18	--
27:3 – 27:12	--
27:23 – 27:25	--

28:2 – 28:9	--
28:12 – 28:25	--
29:2 – 29:10	--
29:20 – 29:25	FRE 403: Cumulative, Waste of Time
30:2 – 30:7	FRE 403: Cumulative, Waste of Time
30:13 – 30:25	FRE 403: Cumulative, Waste of Time
31:2 – 31:25	FRE 403: Cumulative, Waste of Time
32:2 – 32:3	FRE 403: Cumulative, Waste of Time
32:6 – 32:25	FRE 403: Cumulative, Waste of Time
33:2 – 33:25	FRE 403: Cumulative, Waste of Time
34:2 – 34:4	FRE 403: Cumulative, Waste of Time
36:22 – 36:25	--
37:2 – 37:25	--
38:2 – 38:6	--
38:11 – 38:12	FRE 602
38:15 – 38:17	FRE 602
38:20 – 38:25	FRE 602
39:2 – 39:25	FRE 602
40:2 – 40:5	FRE 602
40:12 – 40:15	FRE 602
40:20 – 40:25	FRE 602
41:2 – 41:7	FRE 602
42:7 – 42:25	FRE 403: Confusion, Waste of Time, Prejudice; FRE 602
43:2 – 43:2	FRE 403: Confusion, Waste of Time, Prejudice; FRE 602
44:11 – 44:23	FRE 602
45:2 – 45:9	FRE 602
45:12 – 45:23	FRE 602
48:14 – 48:25	FRE 602
49:2 – 49:20	FRE 602
51:2 – 51:11	--
52:19 – 52:24	--
57:19 – 57:22	--
58:2 – 58:11	--
58:14 – 58:19	--
58:22 – 58:25	--
59:2 – 59:2	--
62:18 – 62:25	FRE 403: Confusion, Waste of Time, Prejudice
63:2 – 63:12	FRE 403: Confusion, Waste of Time, Prejudice

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF CHARLIE MAYER Date of Deposition: April 21, 2009	
Page/Line Designation	Objections
7:5 – 7:6	--

11:6 – 11:8	--
171:4 – 171:19	FRE 401; 402; 403; 602

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DIVJOI NARANG Date of Deposition: March 18, 2009	
Page/Line Designation	Objections
5:20 – 5:25	--
6:2 – 6:7	--
7:12 – 7:25	--
8:2 – 8:25	--
12:3 – 12:25	--
13:2 – 13:3	--
16:14 – 16:25	--
17:2 – 17:25	--
18:2 – 18:21	--
21:5 – 21:20	FRE 602
22:6 – 22:25	FRE 401, 403: Prejudice, Confusion, Waste of Time
23:2 – 23:5	FRE 401, 403: Prejudice, Confusion, Waste of Time
25:8 – 25:25	FRE
26:2 – 26:25	FRE 401, 403: Prejudice, Confusion, Waste of Time
27:2 – 27:13	FRE 401, 403: Prejudice, Confusion, Waste of Time, Objection to Form: Calls for Speculation; Mischaracterizes Prior Testimony; Ambiguous; Vague
27:16 – 27:24	FRE 401, 403: Prejudice, Confusion, Waste of Time, Objection to Form: Calls for Speculation; Mischaracterizes Prior Testimony, Ambiguous, Vague
30:6 – 30:25	FRE 401, 403: Prejudice, Confusion, Waste of Time; FRE 602, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
31:2 – 31:3	FRE 401, 403, 602, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
31:5 – 31:25	FRE 401, 403, 602, 801, Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
32:2 – 32:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801
33:2 – 33:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801
34:2 – 34:7	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602
41:14 – 41:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801
42:2 – 42:12	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801, Objection to Form: Mischaracterizes Prior Testimony; Calls for Speculation; Ambiguous; Vague

42:14 – 42:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801, Objection to Form: Mischaracterizes Prior Testimony; Calls for Speculation; Ambiguous; Vague
43:2 – 43:16	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801, Objection to Form: Mischaracterizes Prior Testimony; Calls for Speculation; Ambiguous; Vague
43:18 – 43:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801, Objection to Form: Mischaracterizes Prior Testimony; Calls for Speculation; Ambiguous; Vague
44:2 – 44:22	FRE 401; 403: Prejudice, Confusion, Waste of Time
45:6 – 45:12	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602
45:22 – 45:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602
46:2 – 46:24	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 701; 801
48:15 – 48:24	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
49:2 – 49:9	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
57:24 – 57:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
58:2 – 58:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801
59:2 – 59:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602
60:2 – 60:14	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602
62:4 – 62:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801
63:2 – 63:4	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
63:6 – 63:11	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
63:16 – 63:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602
64:2 – 64:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801
65:2 – 65:10	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801
65:12 – 65:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
68:10 – 68:25	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior

	Testimony
69:2 – 69:15	FRE 401; 403: Prejudice, Confusion, Waste of Time; FRE 801
72:17 – 72:23	FRE 401; 403: Prejudice, Confusion, Waste of Time
76:24 – 76:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
77:2 – 77:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
78:2 – 78:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
79:2 – 79:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
80:2 – 80:25	FRE 401; 403: Prejudice, Confusion, Waste of Time
81:2 – 81:3	FRE 401; 403: Prejudice, Confusion, Waste of Time
93:14 – 93:25	FRE 403: Prejudice, Confusion, Waste of Time; FRE 602; 801
94:2 – 94:9	FRE 403: Prejudice, Confusion, Waste of Time; FRE 602; 801
94:12 – 94:25	FRE 403: Prejudice, Confusion, Waste of Time; FRE 801
95:2 – 95:12	FRE 403: Prejudice, Confusion, Waste of Time; FRE 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
95:14 – 95:25	FRE 403: Prejudice, Confusion, Waste of Time; FRE 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
96:2 – 96:25	FRE 403
97:2 – 97:25	FRE 403; 801
98:2 – 98:25	FRE 403; 801
99:2 – 99:2	FRE 403; 801
100:10 – 100:19	FRE 403
103:24 – 103:25	FRE 403; 801
104:2 – 104:16	FRE 403; 801
104:19 – 104:21	FRE 403; 801
104:25 – 104:25	FRE 403; 801
105:2 – 105:2	FRE 403; 801
105:6 – 105:25	FRE 403; 801
106:2 – 106:25	FRE 403; 801; 602
107:2 – 107:15	FRE 401; 403; 602; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
107:17 – 107:25	FRE 401; 403; 602; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
108:2 – 108:23	FRE 401; 403; 602; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
108:25 – 108:25	FRE 401; 403; 602; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
109:2 – 109:17	FRE 401; 403; 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony

109:19 – 109:20	FRE 401; 403; 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
116:4 – 116:15	FRE 401; 403; 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
116:17 – 116:25	FRE 401; 403; 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
117:2 – 117:25	FRE 401; 403; 602; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
118:2 – 118:20	FRE 401; 403; 602; 801
123:13 – 123:20	FRE 401; 403; 801
124:3 – 124:19	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
124:21 – 124:25	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
125:2 – 125:6	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
125:8 – 125:14	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
125:16 – 125:25	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
126:2 – 126:7	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony
126:9 – 126:14	FRE 401; 403; 801; Objection to Form: Vague; Ambiguous; Calls for Speculation; Leading; Compound; Mischaracterizes Prior Testimony

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF DAVID OSBORNE Date of Deposition: February 6, 2009	
Page/Line Designation	Objections
5:12 – 5:15	--
5:21 – 6:1	--
8:16 – 9:13	--
9:23 – 12:16	--
13:2 – 14:11	Objection to Form: Leading

14:14 – 15:4	FRE 403: Confusion, Waste of Time, Prejudice
15:19 – 16:3	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
16:7 – 16:18	FRE 401; 402; 403: Relevance, Waste of Time, Confusion; FRE 602
17:14 – 20:12	FRE 403: Confusion; 701
21:17 – 24:2	FRE 403: Confusion; 701
25:2 – 25:10	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
25:18 – 26:7	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
26:11 – 26:13	FRE 401; 402; 403
26:19 – 26:24	FRE 401; 402; 403
27:25 – 28:4	FRE 401; 402; 403
28:14 – 29:2	FRE 401; 402; 403
29:10 – 29:25	FRE 401; 402; 403
30:20 – 30:23	FRE 401; 402; 403
31:9 – 32:19	FRE 403: Confusion; FRE 602; 701
32:21 – 32:23	FRE 403: Confusion; FRE 602; 701
32:25 – 34:11	FRE 403: Confusion; FRE 602; 701
34:14 – 36:16	FRE 403: Confusion; FRE 602; 701
38:21 – 38:24	FRE 403: Confusion; FRE 602; 701
43:16 – 44:2	FRE 401; 402; 403; 602; 701
44:9 – 44:19	FRE 401; 402; 403; 602; 701

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF RODNEY PETERSON Date of Deposition: May 13, 2009	
Page/Line Designation	Objections
5:6 – 5:9	--
8:19 – 8:22	FRE 401; 402; 403
11:17 – 11:18	--
13:18 – 14:4	--
15:10 – 15:24	FRE 401; 402; 403
17:20 – 17:22	--
42:11 – 42:16	FRE 401; 402; 403
52:10 – 52:18	FRE 401; 402; 403; 701
53:8 – 53:11	FRE 401; 402; 403; 701
74:20 – 74:23	FRE 401; 402; 403; 701
JuxtaComm's Counter/Completeness Designations	52:19 – 52:22; 53:12 – 53:16; 74:19; 74:24 – 75:2;

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF BRADLEY POMERLEAU Date of Deposition: March 24, 2009	
Page/Line Designation	Objections
6:19 – 6:24	--
7:5 – 7:25	--
8:2 – 8:7	--
10:8 – 10:17	FRE 403: Confusion (Witness Contradicts at 18:18-18:25)
10:22 – 10:23	FRE 403: Confusion (Witness Contradicts at 18:18-18:25)
11:7 – 11:10	--
18:9 – 18:10	--
18:12 – 18:16	--
18:18 – 18:25	--
19:2 – 19:25	--
20:2 – 20:18	--
22:17 – 22:25	(22:9-22:13 – FRE 401, 402, 403: Relevance, Waste of Time, Confusion, Prejudice)
23:2 – 23:12	--
40:24 – 40:25	--
41:2 – 41:25	--
42:2 – 42:9	--
JuxtaComm's Counter/Completeness Designations	23:13 – 23:15

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF KEN PRATHER Date of Deposition: January 15, 2009	
Page/Line Designation	Objections
6:14 – 6:20	--
7:24 – 8:23	--
9:4 – 9:18	--
9:21 – 10:21	--
11:23 – 11:25	--
18:19 – 19:8	FRE 401; 402; 403
19:20 – 21:2	FRE 401; 402; 403
22:2 – 22:10	FRE 401; 402; 403
30:14 – 31:1	FRE 401; 402; 403
31:6 – 31:20	FRE 401; 402; 403
32:1 – 32:4	FRE 401; 402; 403
47:13 – 48:2	FRE 401; 402; 403
52:15 – 52:17	FRE 401; 402; 403
53:16 – 53:22	FRE 401; 402; 403

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF KEN PRATHER Date of Deposition: February 26, 2009	
Page/Line Designation	Objections
15:12 – 15:23	--
16:6 – 20:13	--
20:23 – 23:24	--
24:17 – 25:10	--
26:20 – 27:21	--
31:12 – 31:16	--
31:18 – 32:20	--
33:18 – 33:24	--
49:3 – 50:5	FRE 401; 402
50:14 – 50:18	--
52:25 – 53:15	--
58:13 – 59:6	--
63:20 – 63:25	--
78:9 – 78:24	--
79:21 – 80:7	--
82:13 – 86:15	FRE 401; 402; 403
100:1 – 100:15	--
101:20 – 104:9	--
106:21 – 107:19	--
108:13 – 108:20	--
116:13 – 117:13	--
118:11 – 119:1	--
120:9 – 120:25	FRE 401; 402
121:8 – 121:18	--
124:25 – 126:3	124:25-125:6, FRE 401, 402 125:11-23, FRE 401; 402 126:2-126:13, FRE 401, 402
127:13 – 128:3	--
129:7 – 129:15	--
JuxtaComm's Counter/Completeness Designations	50:19-51:25

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF KEN PRATHER Date of Deposition: February 27, 2009	
Page/Line Designation	Objections
215:6 – 216:4	--
218:14 – 219:6	FRE 401; 402
219:10 – 219:12	--

221:7 – 222:1	--
229:18 – 229:20	--
231:5 – 231:13	--
252:24 – 253:2	--
314:9 – 314:19	--
316:7 – 317:25	FRE 401; 402
319:21 – 321:12	FRE 401; 402
321:14 – 321:19	FRE 401; 402
322:2 – 322:3	FRE 401; 402
322:5 – 322:13	FRE 401; 402
322:16 – 322:20	FRE 401; 402
322:25 – 323:4	FRE 401; 402
323:6 – 323:17	FRE 401; 402
323:20 – 323:23	FRE 401; 402
324:1 – 324:16	FRE 401; 402
327:3 – 327:12	FRE 401; 402
327:25 – 329:21	--
331:4 – 331:13	--
333:9 – 334:14	--
334:20 – 336:23	--
339:12 – 339:18	--
340:18 – 341:9	--
348:6 – 351:2	--
355:16 – 358:13	358:6-358:13, FRE 401; 402; 403
358:15 – 360:8	FRE 401; 402; 403
360:11 – 361:11	FRE 401; 402; 403
361:14 – 363:3	FRE 401; 402; 403
363:6 – 363:12	FRE 401; 402; 403
363:18 – 364:5	FRE 401; 402; 403
364:8 – 364:10	FRE 401; 402; 403
364:12 – 364:12	FRE 401; 402; 403
364:16 – 364:18	FRE 401; 402; 403
366:19 – 370:22	FRE 401; 402
370:25– 371:18	370:25-371:2, FRE 401; 402
373:10 – 375:5	--
383:7 – 383:17	FRE 401; 402
383:20 – 383:25	FRE 401; 402
384:3 – 385:6	FRE 401; 402
385:9 – 385:12	FRE 401; 402
385:20 – 385:22	FRE 401; 402
385:25– 386:19	FRE 401; 402
386:22 – 387:1	FRE 401; 402
388:12 – 389:2	FRE 401; 402
389:5 – 389:10	FRE 401; 402
390:11 – 390:19	FRE 401; 402

390:25 – 391:24	FRE 401; 402
400:7 – 400:9	--
400:12 – 400:13	--
401:17 – 401:21	--
403:15 – 403:19	--
407:6 – 408:5	--
409:7 – 410:1	--
410:411:5	--
411:7 – 412:5	--
412:13 – 413:19	--
414:20 – 416:23	--
417:1 – 418:9	--
418:12 – 420:21	--
421:1 – 422:5	--
425:1 – 245:15	--
425:17 – 427:10	--
427:21 – 427:24	--
428:2 – 428:5	--
428:14 – 428:15	--
429:3 – 432:3	--
432:7 – 432:24	432:21-432:24, FRE 401; 402
433:21 – 434:8	FRE 401; 402
434:10 – 439:10	--
440:3 – 440:12	--
442:23 – 443:14	--
444:22 – 445:8	--
447:10 – 448:7	--
448:18 – 450:2	--
450:11 – 450:20	--
451:16 – 452:21	--
452:24 – 453:2	--
459:6 – 459:22	--
460:21 – 462:12	--
462:14 – 464:19	--
464:22 – 465:8	--
465:11 – 466:19	--
466:22 – 468:1	--
468:4 – 468:15	--
468:20 – 469:5	--
469:13 – 470:17	--
JuxtaComm's Counter/Completeness Designations	448:8-448:17

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF GERALD ROSENTHAL Date of Deposition: April 3, 2009	
Page/Line Designation	Objections
4:17 – 4:18	--
5:13 – 5:25	--
6:2 – 6:15	--
17:12 – 17:25	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
18:2 – 18:25	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
19:2 – 19:5	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
22:17 – 22:22	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
23:22 – 23:25	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
24:2 – 24:4	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
24:12 – 24:25	--
25:2 – 25:7	--
26:11 – 26:25	--
27:2 – 27:7	--

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF RICK SHANNON Date of Deposition: March 24, 2009	
Page/Line Designation	Objections
7:18 – 7:21	--
10:25 – 11:3	FRE 401; 402; 403; Ambiguous
11:6 – 11:12	FRE 401; 402; 403
11:15 – 13:25	FRE 401; 402; 403
14:4 – 14:5	--
14:15 – 15:19	FRE 401; 402; 403
16:2 – 17:12	FRE 401; 402; 403; Leading, Mischaracterizes Prior Testimony
17:15 – 17:22	FRE 401; 402; 403
18:7 – 18:12	FRE 401; 402; 403
20:10 – 21:2	FRE 401; 402; 403
21:4 – 21:19	FRE 401; 402; 403
21:25 – 22:4	FRE 401; 402; 403; Leading
22:7 – 22:7	FRE 401; 402; 403; Leading
22:20 – 24:23	FRE 401; 402; 403
32:16 – 32:23	FRE 401; 402; 403
33:3 – 33:16	FRE 401; 402; 403
34:7 – 34:19	FRE 401; 402; 403
40:9 – 41:2	FRE 401; 402; 403; 701
48:1 – 48:19	FRE 401; 402; 403
53:2 – 53:11	FRE 401; 402; 403
63:12 – 63:16	--
63:24 – 64:13	--

90:23 – 91:4	--
91:8 – 91:17	FRE 401; 402; 403; Mischaracterizes Prior Testimony
91:21 – 92:7	FRE 401; 402; 403
92:13 – 92:18	FRE 401; 402; 403
130:8 – 130:10	--
130:13 – 130:21	FRE 401; 402; 403
130:23 – 131:18	FRE 401; 402; 403; 602
131:21 – 132:2	FRE 401; 402; 403
160:7 – 160:10	FRE 401; 402; 403
160:14 – 161:13	FRE 401; 402; 403
JuxtaComm's Counter/Completeness Designations	14:1; 91:5 – 91:7

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF TIMOTHY SMITH Date of Deposition: March 23, 2009	
Page/Line Designation	Objections
6:5 – 6:7	--
6:23 – 7:3	--
7:19 – 9:1	--
9:13 – 9:19	--
37:11 – 38:11	FRE 403: Confusion, Waste of Time, Prejudice; FRE 602
38:13 – 38:15	FRE 403: Confusion, Waste of Time, Prejudice; FRE 602
38:17 – 38:19	FRE 403: Confusion, Waste of Time, Prejudice; FRE 602

DEPOSITION EXCERPTS FROM DEPOSITION TESTIMONY OF LEE STOCKSETH Date of Deposition: March 25, 2009	
Page/Line Designation	Objections
5:10 – 5:13	FRE 401; 402; 403: Relevance, Waste of Time
7:18 – 7:21	--
8:4 – 8:10	FRE 401; 402; 403: Relevance, Waste of Time
8:25 – 9:21	--
9:24 – 9:24	--
20:15 – 20:16	FRE 401; 402; 403: Relevance, Waste of Time, Confusion
21:12 – 21:21	FRE 403: Confusion; 602
21:23 – 22:1	FRE 403: Confusion; 602

**DEPOSITION EXCERPTS FROM
DEPOSITION TESTIMONY OF JIM YAWORSKI
Date of Deposition: May 13, 2009**

Page/Line Designation	Objections
4:8 – 4:11	--
5:20 – 6:20	FRE 401; 402; 403: Waste of Time
10:9 – 10:11	--
12:24 – 14:17	FRE 401; 402; 403
17:18 – 17:25	--
23:19 – 24:23	FRE 401; 402; 403
38:4 – 39:23	FRE 401; 402; 403; 602
45:14 – 45:21	FRE 401; 402; 403
54:2 – 54:20	FRE 401; 402; 403
63:18 – 64:18	FRE 401; 402; 403; 602; 701
76:8 – 76:11	FRE 401; 402; 403; 602

Dated: October 15, 2009

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, these Objections were served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(b)(1). Pursuant to Fed. R. Civ. P. 5(a)-(d) and Local Rule CV-5(b)(2), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email and/or fax, on this the 15th day of October, 2009.

R. Laurence Macon

R. LAURENCE MACON